The Nova Scotia Workers' Compensation Program
Response Plan

Government's Response to the Report of the Workers' Compensation Review Committee

NOVA SCOTIA
Environment and Labour

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Government Response to the Dorsey Report on the Workers' Compensation Act

Honourable David Morse
Minister of Environment and Labour

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1. Introduction

The Select Committee on the Workers' Compensation Act recommended in 1998 that a Review Committee be appointed in several years to determine the impact of recent legislative changes and to assess how well the system was operating.

The Workers' Compensation Review Committee was appointed in 2001 to conduct that review, and spent a year meeting with the stakeholders of the system, conducting focus group sessions, researching and reviewing the many submissions of stakeholders. The Dorsey Committee-made up of labour, injured worker and employer representatives- produced a consensus report. That report attempted to review the historical context in which the workers compensation program operates, the impacts of the changes on workers in the program, as well as point the way to future changes that could enhance benefits and sustainability.

In preparing its response to the Dorsey Report, Government reviewed the Meredith Principles, and recognized the unique nature of the Workers Compensation Board (WCB) as a partnership between labour and management. The WCB is an arm's length agency funded solely by industry assessments, providing no-fault benefits for workers. In exchange for this, workers covered by workers' compensation give up the right to sue their employers. The WCB Accident Fund is managed as a trust by labour and management interests.

The Government explored whether there could be areas for regional harmonization in the workers compensation program, or where Government could assist in positioning the board for regional synergies in the future.

The Dorsey Report acknowledged that the workers compensation system could not be "fixed" overnight and recognized that the recommendations would need

to be implemented over time. The Government acknowledges that there are some longstanding issues that need to be strategically addressed if the system is to advance in a sustained manner. Government agrees that its role in the system is primarily to set the framework for governance.

2. Key Government Values and Principles

In reviewing the recommendations of the Review Committee, Government recognizes the fine balance that must be struck to ensure a fair workers' compensation system that is characterized by:

- fiscal sustainability;
- reasonable assessment rates;
- fair benefits to injured workers;
- a strategy for prevention; and
- strong co-operation and measurable results for the agencies responsible for the system.

The focus of the Government's response is on two major themes or issues:

1) The need for improved corporate governance and best practices for those governing the compensation system.

2) The need for strategic planning for the health and safety and compensation program as a whole, and the need to involve stakeholders in the development of plans and policies.

Governance is the centrepiece of this response and the common concern coming out in stakeholder responses, and Government wants to ensure that piece is on solid footing for the future.

1) Corporate Governance and Accountability

The Dorsey Report recommended the creation of an overarching board of directors that would be responsible for all matters related to workers compensation plus have governing oversight of the Occupational Health and Safety Division, Workers' Advisers Program (WAP) and the Workers' Compensation Appeal Tribunal (WCAT).

The Government sees value in the intent of the Dorsey Report's recommendation, but also considers it important to maintain elements of institutional independence that clearly separate Government from the independent arms' length agency. Institutional independence does not mean "no contact, no communication". It means that there should be structured opportunities for input that do not compromise the integrity and independence of each of the organizations.

Strong prevention efforts will offer the best cost containment strategy for the future and will have to involve a strong partnership with all the associations and stakeholders in the system. The Government will move the prevention and education unit of Occupational Health and Safety to the WCB to ensure the board's governing oversight is complete on the issues of prevention and education.

The introduction of the Prevention and Education unit to the WCB will undoubtedly have implications for the structure of the WCB as an organization. The new Chair and the Board of Directors will need to consider the most effective management model to facilitate the integration of the insurance and prevention program. It may include a new approach to some of the processes now implemented in prevention and education.

Government will ensure that the remaining OHS Compliance and Enforcement Division, WCAT and WAP provide reports to the WCB board of directors on a quarterly basis to update and get feedback from the board on issues and results. The Government does not see the need at this time to include the Deputy Minister on the WCB board, as it is a stakeholder board, fully funded by the employers. The Board administers a trust fund for employees in this Province. As such it is an independent agency.

The presence of the Chief Appeal Commissioner on the board also raises issues of issues of institutional independence, and the Government does not consider it necessary to have the Chief Appeal Commissioner on the board of directors.

In summary the Government agrees:

- Prevention and Education should be moved to be under the Board's mandate. The Prevention and Education initiatives will apply to both industries covered by the WCB as well as non-covered industries. New approaches should be reviewed to integrate these programs into the WCB.
- That Board Governance will be enhanced by formal interaction with the outside agencies on a quarterly basis.
- That the Deputy Minister not be part of the Board of Directors.
- That the Chief Appeal Commissioner not be part of the Board of Directors.
- That the Workers' Advisers Program report directly to the Deputy Minister.
- That the OHS Executive Director continue to report to the Deputy Minister.

2) Strategic Planning

The development of a blueprint for the future and a strategic plan is crucial to determining how well the system is performing for those who it is designed to serve. The involvement of all the agencies in the health and safety and workers compensation system is crucial to develop key goals and strategies to reduce workplace accidents and injuries, to reward successful prevention results, and to improve the insurance system. The Auditor General noted in 1998 that:

> There is no common strategic planning, no common data bases, and appears to be limited direct contact except on some specific matters....Respect for the important role that each agency plays in delivering this vital service, and co-operation in establishing broad strategy objectives that would be common to each group, together with sharing appropriate information in areas of common interest, should significantly improve the working relationships among the groups, and the delivery of improved service levels to users of the system.
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> **The Auditor General's Annual Report, 1998 (p 189)**

The Government agrees with the need for strategic planning and is pleased that a new Chair has been appointed to lead this exercise. All agencies and key stakeholder groups will be asked to participate in the development of the

strategic plan. Strategic planning is important because from it flows the future legislative, regulatory, policy and administrative change priorities for the system. The Dorsey Report noted:

> There is a pressing need to define common goals, to create integrated lines of accountability and communication and to set program, not just agency, measures of performance. This (Dorsey) committee has not had the time or the mandate to pursue each. However, it is a task that must be done without delay and with broader public debate.
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> **The NS Workers' Compensation Program: A Focused Review (p 217)**

The input of key stakeholders in the strategic planning process is essential and it is important that injured workers' associations receive interim funding support in order to participate in that process. The parameters set out in the Dorsey Report will be applied to this interim funding.

- The association must be a legal entity with a membership and structure whose sole purpose is to serve injured workers.
- The association's services include a defined service beyond the service provided by WAP.
- The association has an established record of service, financial accountability and reporting to members.

In summary, the Government agrees

- That each agency (OHS, WCB, WCAT and WAP) should participate in the strategic planning process, under the leadership of the new Chair.
- That the new Chair look at effective and innovative consultation mechanisms for strategic planning and the development of policies. There are many ways to do this including website discussion papers, internet response sites and direct mail-outs to stakeholders.
- That performance standards and key measures will flow from the strategic planning process that will help to chart how well the system is performing as a whole.

These recommendations will assist in meeting stakeholders wishes for openness and transparency in the policy and planning aspects of the Workers' Compensation Board's work, and will allow the other agencies (Workers' Advisers Program, Workers' Compensation Appeals Tribunal and Occupational Health and Safety Division) to have important input.

3) Improvements and Benefits

The Dorsey Report found that there had been many improvements to the workers' compensation program in Nova Scotia, but there were also many areas where the system and benefits could be enhanced. The Government recognizes the concerted efforts of labour and management representatives on the board of directors to reduce the unfunded liability, and does not want to undermine those efforts in any way.

On the recommendations related to benefits and improvements to the system, the Government would ask that the new Chair deal with these issues within the context of the strategic planning process. Further cost analysis, review and debate is needed to determine the priority and implementation process for these recommendations. All stakeholders are concerned with the sustainability of the system, and it is only prudent to determine a solid plan before any changes are implemented.

Summary

The Government recognizes the complexity of the workers' compensation program and the range of issues affecting so many different interest groups across the province. The Dorsey Report recognized that for many of the recommendations there would be a need to do further analysis, study and review to determine the best way to implement the report.

Strong governance, a strategic plan that is focused on prevention, and a process that is inclusive and transparent – this is what stakeholders have indicated they want to see reflected in the workers compensation system. Many encouraged the Government to look at the recommendations as a whole and attempt to implement them all. The decisions on the governance issues reflect the key priorities and the major responsibilities of the Government. The implementation strategy for the other recommendations of the Dorsey Report will be determined by the stakeholders of the system through the strategic planning process.

The appointment of the new Chair of the board, who was selected after a fair and open process by a Selection Committee made up labour and management representatives, signifies an important milestone in the evolution of the workers' compensation system. The challenges of the future are considerable, but through the leadership of the new Chair working with the board of directors, we believe that the board is better positioned to deal with these challenges than it was in the past.